

PART 7 INVESTIGATION PROCESSES

Chapter 40: Republican Compliance Issues

During its investigation, the Committee issued over 400 document and deposition subpoenas to a variety of organizations and individuals. Of those subpoenas, 89 were issued at the request of the Minority and sought documents and testimony regarding Republican fundraising activities. Approximately half of the 89 subpoenas sought documents from pro-Republican organizations or from banks that possessed relevant information. Unfortunately, the other half of the 89 were deposition subpoenas issued to officials affiliated with the Republican Party. The Committee was forced to issue these deposition subpoenas because officials affiliated with the Republican Party, unlike most officials affiliated with the Democratic Party, see Chapters 39 and 42, refused to voluntarily cooperate with the Committee's request for deposition testimony. By the end of the investigation, although the Committee had received hundreds of thousands of documents and taken 240 depositions, the Committee received from these Republican affiliated groups combined -- including the RNC and all pro-Republican groups subpoenaed by the Committee -- less than 100,000 pages of documents and only 36 depositions.

FINDINGS

(5) The RNC impeded the investigation. The RNC unilaterally redacted documents and appears to have intentionally withheld material documents. RNC witnesses failed to cooperate in scheduling depositions, and, in the instances where depositions were scheduled, they were unilaterally canceled.

(6) Entities supportive of the Republican party impeded the investigation. Entities including the National Policy Forum, Americans for Tax Reform, and Triad intentionally impeded the investigation by failing to produce documents and witnesses under subpoena.

INTRODUCTION

On April 9, 1997, the Committee issued document subpoenas to several organizations associated with the Republican Party, including the Republican National Committee (RNC), the National Policy Forum, Americans for Tax Reform, and Triad Management Services, Inc. (Triad). Beginning late April 1997, the entities made clear to the Committee that they would resist the Committee's subpoenas and other requests for information. For example, although the DNC began its documents production in March 1997, even before it received a Committee subpoena, the RNC did not make a meaningful production to the Committee until late June 1997. In addition, despite the fact that the RNC and DNC received similar subpoenas on April 9, the RNC produced only 70,000 pages of redacted documents, compared to the DNC's production of over 450,000 unredacted documents. The other Republican-affiliated groups subpoenaed in April provided less information to the Committee than the RNC. Some of the groups even claimed that

the Committee subpoena was “not applicable” to their organizations.

Beginning in the spring of 1997, the Minority urged Chairman Thompson to enforce the subpoenas against these entities. Although Chairman Thompson ultimately issued an order of compliance in July 1997 to the National Policy Forum, that organization flagrantly ignored the order and refused to comply. This defiance sent an unfortunate message to other Republican affiliated groups, and perhaps even groups that were later subpoenaed by the Committee, that the subpoenas could be ignored with no consequences.

In fact, after the Committee later issued additional subpoenas to 26 organizations, many of those organizations on both sides of the political aisle ultimately banded together and did not respond to the Committee mandate. See Chapter 41. This issue turned the Senate investigative process into a “paper tiger.” The enforcement power of the Committee, and of the Senate, could have been preserved had the Majority acted decisively against those organizations -- most of them Republican -- that first challenged the Committee’s authority in the spring of 1997. The groups discussed in this chapter were all subpoenaed in early April, which was near the beginning of the investigation so that “running the clock” on the investigation was not an issue. Moreover, Senator Glenn and other Democrats publicly stressed on numerous occasions their willingness to vote contempt against any entity that refused to comply with a valid Senate subpoena.

THE FIRST SUBPOENAS

On April 9, 1997, the Committee issued subpoenas to the Republican National Committee (“RNC”), Dole for President, Triad and its affiliates, Coalition for Our Children’s Future, the National Policy Forum (“NPF”) and Americans for Tax Reform (“ATR”). The return date for these subpoenas was April 30. In order to understand the extent to which the investigation deteriorated, it is important to fully review the context of the events as they unfolded. By the middle of June -- just three weeks before the hearings were scheduled to begin -- the production of documents by most of the Republican-affiliated organizations under subpoena remained woefully incomplete, and in some cases, non-existent:

- O** By April 30, the Republican National Committee had produced only an internal telephone directory and some organizational charts. By June 10, the RNC had provided only four boxes of heavily redacted documents. The Minority estimates that on this date, it received 15,000 documents, 20 percent of which had been redacted and another 20 percent consisting of publicly available information. This record was in sharp contrast to the DNC, which by this date had produced 61 boxes containing over 150,000 pages of unredacted documents.
- O** During the course of the investigation, Dole for President provided the Committee with only three boxes of material. In contrast, Clinton/Gore produced five boxes containing 11,930 pages of material.

- Triad and its affiliates provided one box of documents by June 10, the majority of which, it appeared, were provided by Triad's affiliates. It is noteworthy that Carolyn Malenick, Triad's president, had a company policy that required the "cleaning" of Triad's computer files on a regular basis.¹
- Americans for Tax Reform adopted the unsupportable position that since it played no role in the 1996 election, the subpoena was not applicable.² By June 10, it had produced no documents.
- The National Policy Forum, represented by the same lawyer as ATR, also took the position that since, in its view, it played no role in the 1996 election, the subpoena was not applicable. On June 6, NPF did provide the Committee with some documents, which were simultaneously provided to the news media. NPF expressly stated that this production did not constitute compliance with the Committee's subpoena.³
- These organizations together -- the RNC and all Republican groups combined -- only provided 36 days of deposition testimony, with many individuals refusing to appear or answer questions before and after the Committee had issued deposition subpoenas demanding their appearance. The Committee took a total of 240 depositions during its investigation.

Below is a discussion of the cooperation and compliance of the RNC, Triad, NPF and ATR in response to the Committee's investigation.

RNC COMPLIANCE ISSUES

The RNC's initial response to the Committee's April 9, 1997 subpoena was to produce only an internal telephone book. Finally, on May 23, the RNC began to produce documents. Unfortunately, as Chairman Thompson wrote to RNC Chairman Jim Nicholson on June 11, "the RNC ... in many cases ... unnecessarily redacted the documents produced."⁴ To date, the RNC has offered no explanation for any of the redactions to several thousand documents.

The RNC also failed to produce a number of inculpatory subpoenaed documents. The Committee's document subpoena asked the RNC to produce, among other things:

All documents referring or relating to the following, including but not limited to communications between the RNC and officers, agents, or employees of any of the following: ... 21) American Defense Institute and Foundation, ...23) National Right to Life Committee; ...26) Americans for Tax Reform; ...28) Grover Norquist⁵

On October 17, the Dole for President committee produced a number of documents that had been stored in the computer hard drive of Jo-Anne Coe, who served as RNC deputy finance director in 1996. One of those documents was an October 17, 1996, memo from Coe to RNC

Chairman Haley Barbour, RNC Executive Director Sanford McAllister, and RNC Director of Campaign Operations Curt Anderson. In this document, Coe wrote:

Today I have also sent \$100,000 to National Right to Life and \$100,000 to Americans for Tax Reform -- both from Carl Lindner. In addition, the following checks for ADI are en route to me: \$100,000 [from] Jack Taylor, \$100,000 [from] Max Fisher, \$50,000 [from] Don Rumsfeld, \$30,000 [from] Pat Rutherford. The \$100,000 check from Lincy Foundation (Kirk Kerkorian) for ADI is still MIA. With the \$100,000 from Lincy, this will bring the total for ADI to \$510,000 -- plus the \$500,000 Haley obtained from Philip Morris.⁶

This document refers to Americans for Tax Reform, the National Right to Life Committee, and the American Defense Institute -- three organizations specifically mentioned in the Committee's subpoena. Considering that the document was stored in the hard drive of the RNC's deputy finance director and addressed to three top RNC officials, the failure of the RNC to produce it raises a compelling inference that the RNC willfully withheld material evidence which had been subpoenaed.

Coe's hard drive contained a number of other responsive documents that the RNC failed to produce. One example is the text of an October 21, 1996 letter from Coe to ATR President Grover Norquist. The letter asked Norquist to write a thank-you note to Carl Lindner, who had, at the RNC's request, written a \$100,000 check to ATR.⁷ Coe also wrote a letter to the executive director of the National Right to Life Committee, asking that he also send a thank-you note to Lindner for a \$100,000 contribution that the RNC had engineered.⁸ Another responsive document contained in Coe's hard drive listed the amounts of money the RNC directly controlled and contributed to the American Defense Institute, National Right to Life Committee, and Americans for Tax Reform.⁹ Every single one of these documents is responsive to the Committee's subpoena. Yet, the RNC failed to produce any of these documents, and has refused to explain its failure to comply with the Committee's document subpoena. Whoever was responsible for this declaration on the part of the RNC should, in the view of the Minority, be investigated for possible obstruction of justice.

The RNC's record of making witnesses available for interview or deposition was another indication of the organization's planned activity to impede the Committee's investigation. On April 28, the Minority provided the RNC with a list of 16 individuals the Minority wished to interview. The RNC stated numerous times to Committee staff that each of these witnesses would appear voluntarily for interviews.¹⁰ Unfortunately, despite repeated attempts to schedule these 16 interviews, only five ultimately agreed to talk to Committee staff.

Majority and Minority Chief Counsels requested in a joint letter to the RNC that it promptly schedule depositions for 15 witnesses. The letter told the RNC that "[i]f a schedule cannot be worked out between you and counsel for the Committee by August 12, 1997, the Committee will find it necessary to subpoena [these] individuals."¹¹ The RNC assured the

Committee that all of these witnesses would appear voluntarily for depositions by the end of October.¹² Despite these assurances, and again despite repeated attempts to schedule deposition dates, the RNC did not allow the Committee to depose a single one of these witnesses.

The refusal of RNC witnesses to appear voluntarily for depositions prompted the Committee to issue deposition subpoenas for Dole for President Campaign Manager Scott Reed and RNC Deputy Finance Director Coe, both of whom were represented by RNC counsel Martin Weinstein.¹³ The subpoenas were served on September 19, 1997. RNC counsel earnestly assured the Committee that it would comply with the Committee's subpoenas, and then cancelled several deposition dates. Ultimately, in October, the RNC informed the Committee that Coe and Reed would in fact not appear for depositions or otherwise comply with the Committee's subpoena.¹⁴ Coe and Reed asserted no legal basis to explain their refusal, nor did they challenge the validity of the Committee's subpoenas. In stark contrast to the DNC officials who all voluntarily appeared for depositions, these RNC officials simply refused to respond to the Committee's requests for information and, when subpoenas were finally issued to require them to cooperate, they proceeded to ignore the Committee's mandate.

TRIAD COMPLIANCE ISSUES

The subpoenas issued to Triad Management Services, Inc. (Triad), a for-profit company, and its affiliates, Citizens for Reform ("CFR") and Citizens for the Republic Education Fund ("CREF"), called for the production of documents under a total of 56 separate paragraphs.¹⁵ Although the return date for the production of documents was April 30, Triad did not begin to make any significant production until early June. Ultimately, Triad produced no more than a few hundred documents. In fact, Triad's affiliate organizations, discussed below, provided the Committee with more documents than did Triad itself and provided several documents that originated at Triad, but were not produced by Triad. Several of the documents strongly suggest that Triad withheld responsive documents from the Committee. One possible, albeit extremely troubling, explanation may be that Triad destroyed documents in anticipation of the Committee's subpoena. Triad produced a memorandum dated February 20, 1997, in which Triad's president, Carolyn Malenick, informed employees of the company's "cleaning of the computers."¹⁶

Triad, through its lawyer, Mark Braden, maintained that it provided the Committee with all documents called for under the subpoena. Although the Minority cannot prove that any documents were either intentionally destroyed or withheld, the Minority believes it is likely that additional responsive documents exist which have not been produced. For instance, there was incomplete information about advertising planned, produced, or paid for by Triad, CFR, and CREF. There were no scripts or invoices for ads produced by CREF. There were no internal memoranda from CREF such as communication between vendors and the CREF's chairman, Lyn Nofziger. Curiously, there was no application for tax-exempt status produced by CREF, even though its attorney claimed it was a 501(c)(4).

Another example of a document that may have been withheld was a "fee schedule" which

was referred to in the deposition of Meredith O'Rourke, Triad's finance director,¹⁷ and which should have been produced under paragraph 10 of the subpoena.¹⁸ Additionally, it is clear from Triad's marketing video that company officials met with elected officials to plan strategy and fundraising. Yet, Triad produced no information about any meetings at which elected officials to federal office were present.

The Minority was interested in exploring the issue of document production with several Triad witnesses but, with a few exceptions, the witnesses were extremely uncooperative. For example, Carolyn Malenick, Triad's president, Lyn Nofziger, Citizens for the Republic chairman, and Carlos Rodriquez, Triad's campaign consultant, were all subpoenaed for deposition testimony.¹⁹ Initially, they all ignored their respective dates for deposition and failed to appear. After the Minority requested that the Chairman hold them in contempt, they each appeared, but refused to answer questions.²⁰ Other witnesses critical to the Triad story, including Mark Braden, David Gilliard, Kathleen McCann, Richard Dresner, and James Farwell were under subpoena, but failed to appear for their depositions.²¹ Peter Flaherty, the Chairman of Citizens for Reform, did appear for his deposition, but chose to adopt an openly hostile attitude by frequently answering questions "None of your business."²²

On July 3, 1997, five days before the hearings began, Chairman Thompson wrote a letter to Jim Nicholson, chairman of the Republican National Committee, in which he warned the RNC against "shielding" witnesses and failing to produce documents.²³ More importantly, on that same day, the Chairman issued an Order to the National Policy Forum to produce documents.²⁴

THE NPF ORDER

An order is essentially a command by the Chairman that the individual or entity must comply with the Committee's requests and demands or face the legal consequences -- presumably contempt. The Chairman had previously issued an order to the DNC with which the DNC complied. The National Policy Forum, on the other hand, completely ignored the order. In fact, the NPF's lawyer, Thomas Wilson, responded in a letter to the Majority Chief Counsel that "The Committee's subpoena cannot change the limits of the Committee's jurisdiction; neither can a letter purporting to be an order issued by the Committee's Chairman."²⁵

Wilson's defiance of the order was a decisive moment in the investigation. A subpoena to the AFL-CIO had only been issued a few weeks before and the scope of that subpoena was still being negotiated. Other organizations, such as the RNC, were clearly in violation of their subpoenas, but only the NPF was under an order.

Regrettably, after Wilson's letter, the Chairman took no action. The Minority was forced to conduct its three days of hearings on NPF without ever having that organization even partially comply with the subpoena. More importantly, the NPF episode likely sent a signal to other organizations that the chairman would not exercise the contempt option and that the Committee's processes, particularly when directed at Republican entities or individuals, could be ignored with

impunity. As a result, most of the Republican-affiliated organizations under subpoena abandoned any pretense of cooperation with the Committee's inquiry.

NPF COMPLIANCE ISSUES

The subpoena issued to the National Policy Forum on April 9, 1997 called for the production of documents under 27 separate paragraphs.²⁶ After several delays, NPF provided a limited number of documents on June 6, 1997. Many of the materials had already been provided voluntarily to the Committee by the attorney for Young Brothers Development (USA) and most were also provided by the NPF to members of the media at the same time they were delivered to the Committee. The next limited production from NPF came on June 30. Accompanying the documents was a transmittal letter that stated:

Nevertheless, in the same spirit of cooperation that motivated the Forum to provide voluntarily to the Committee documents regarding the Signet Bank loan transaction on June 6, 1997, the Forum is today voluntarily providing 30 boxes of additional materials. These materials -- like the loan materials -- are not responsive to the Committee's subpoena. They have nothing to do with the 1996 Federal election campaigns and the Forum has no obligation to produce them. The Forum, however, has decided voluntarily to provide the Committee with materials that will give the Committee a better understanding of the Forum's purposes and activities.²⁷

Due to its position that it was not producing documents pursuant to subpoena, NPF failed to categorize or relate the documents it provided to specific paragraphs of the subpoena, or to make any representation as to whether there were certain paragraphs of the subpoena for which it had no responsive documents. As noted in Chapter 3 on NPF, because the Committee received important and responsive documents from other sources and it became clear that NPF was willfully withholding documents. As noted above, Chairman Thompson issued an order on July 3, 1997, that stated, "The National Policy Forum is ORDERED and DIRECTED to produce all documents in its files that are responsive to the NPF subpoena...by 9 a.m. on Monday, July 14, to Committee staff..."²⁸ Not only did NPF's counsel ignore the July 14 deadline, but on July 15, he responded by providing a limited number of additional documents along with a letter stating: "As with the June 30 production, the Forum has not provided these materials in response to the Committee's subpoena or because it is obligated to do so."²⁹

NPF also ignored paragraph (2) of the subpoena, which requested "All documents referring or relating to NPF obtaining or maintaining tax-exempt status."³⁰

A letter to NPF (and RNC) Chairman Haley Barbour from former NPF President Michael Baroody, in which Baroody expressed concern that NPF could be endangering its tax exempt status was never provided to the Committee by NPF, in direct contravention of paragraph (2) of the subpoena and of the Chairman's order.³¹ In addition, NPF further obstructed the Committee's investigation by refusing to turn over other documents responsive to paragraph (2) of the

subpoena until its July 15 “voluntary” production, when it finally turned over one Internal Revenue Service (“IRS”) document denying NPF’s tax-exempt status.³²

NPF ignored paragraph (20) of the subpoena, which requested:

All documents referring or relating to, or containing information about, any conferences, receptions, briefings, or meetings organized by, or through, NPF at which any official elected to federal office and any donor to NPF were present.³³

NPF violated paragraph (20) of the subpoena by failing to provide at least two documents that were ultimately provided to the Committee by other sources. One was a memo to Haley Barbour from NPF fundraiser Grace Wiegiers regarding “Recruiting Members of Congress to Raise Money for NPF.”³⁴ The second was a memorandum to NPF President John Bolton from Grace Wiegiers and Dianne Harrison regarding “Megaconference Sponsorship.”³⁵ Both are fundraising memos which anticipate NPF donors meeting with elected officials. (Appearances by elected officials were a feature of NPF megaconferences.)

NPF ignored paragraph (23) of the subpoena, which requested:

All documents referring or relating to, or containing information about, communications by any director, officer, employee, or agent of NPF and any director, officer, employee or agent of a registered political committee, including, but not limited to, a national party committee.³⁶

NPF violated paragraph (23) by withholding from the Committee a memorandum from RNC official Scott Reed to NPF officials Haley Barbour, Michael Baroody, and Kenneth Hill.³⁷ The Committee received this document from another source.

In addition to withholding documents in defiance of the Committee’s subpoena and Chairman Thompson’s order, NPF’s attorney, Thomas Wilson, may have obstructed the Committee’s investigation by making false statements to the Committee. Wilson repeatedly claimed that NPF was not required to comply with the subpoena because “the Forum had nothing to do with the 1996 Federal election campaigns, or any other election campaigns.”³⁸ In hearings on NPF, the Committee established that NPF was nothing more than a front for the Republican National Committee, that foreign money was funneled from the NPF to the RNC, and that the money was ultimately used in federal and state elections in 1994 and 1996.³⁹ In addition, the Internal Revenue Service denied tax-exempt status to NPF on the ground that the group engaged in partisan political activity.⁴⁰ Wilson knew or should have known of the election activity engaged in by his client, and he willfully misled the Committee.

It is clear that NPF refused to comply with the Committee’s subpoena and order, and that its agent misled the Committee by making a false statement of material fact. What is unclear is how many other responsive documents NPF failed to produce that the Committee was unable to

acquire through other sources. NPF's actions were taken knowingly and willfully, and as such constitute an obstruction of the Committee's investigation.

ATR COMPLIANCE ISSUES

The subpoena issued to Americans for Tax Reform on April 9 called for the production of documents under 29 separate paragraphs.⁴¹ After several delays, ATR provided certain documents to the Committee on June 11, 1997. The transmittal letter accompanying these documents, however, stated:

ATR makes the production of the documents which accompany this transmittal letter voluntarily and purely as a matter of grace, not because ATR believes that any of the documents produced are called for by the subpoena, when that subpoena is read in conjunction with the jurisdictional limitations placed upon the Committee's investigation by S. 39 [sic -- S. Res. 39].⁴²

ATR also stated in its letter that "ATR has virtually no documents that relate to the 1996 Federal election campaign, and, we believe, no documents at all that relate to 'illegal or improper activities in connection with 1996 Federal election campaigns'..."⁴³

Due to its position that it was not producing documents pursuant to a subpoena, ATR -- like NPF-- failed to categorize or relate the documents it provided to specific paragraphs of the subpoena, or to make any representation as to whether there were certain paragraphs of the subpoena for which it had no responsive documents. As a result, it was difficult at first for the Committee to know in certain instances whether ATR was willfully withholding responsive documents or whether it merely had no such responsive documents. In a letter to ATR dated August 15, 1997, and signed jointly by Majority and Minority Chief Counsels, the Committee identified 12 specific paragraphs for which it determined ATR failed to produce documents and asked ATR to provide the Committee with an affidavit stating whether ATR had withheld any documents responsive to these or any other specifications of the subpoena.⁴⁴ ATR's affidavit failed to provide such a statement; rather, it merely reiterated the positions taken by ATR in its original transmittal letter.⁴⁵

Among the subpoena requests identified in the Committee's August 15 letter were paragraphs 9 and 25 which read as follows:

All documents referring or relating to, or containing information about, any contribution, donation, transfer, loan, or grant, or funds or services, made to ATR from any registered political committee.⁴⁶

* * *

All documents referring or relating to, or containing information about, communications by any director, officer, employee, or agent of ATR and any

director, officer, employee or agent of a registered political committee, including, but not limited to, a national party committee.⁴⁷

It is an established fact, publicly admitted by ATR President Grover Norquist, that the Republican National Committee “donated” \$4.6 million to ATR in October 1996. Any and all documents relating to this donation would certainly be responsive under both paragraphs 9 and 25. Despite this, ATR failed to produce to the Committee any documents relating to this transaction. The Committee now knows, however, that certain documents relating to this transaction do exist because they were subsequently produced to the Committee by the RNC.⁴⁸ Among these documents are four separate letters from Haley Barbour to ATR’s executive director, each of which notify her of the RNC’s donations “through its non-federal component, the Republican National State Elections Committee.”⁴⁹ This clearly evidences the RNC’s contribution to ATR of soft money for partisan political purposes. ATR withheld these documents from the Committee. The failure to produce these documents by whomever was responsible for ATR’s production may well amount to obstruction of justice.

It is also an established fact, publicly admitted by ATR’s Norquist, that the money ATR received from the RNC was used to conduct a direct mail and phone bank campaign addressing the Medicare issue.⁵⁰ The RNC produced another document, “Memorandum for the Field Dogs,” which was created shortly before ATR began its direct mail campaign.⁵¹ The document refers to an attached copy of one of the direct mailings that was to be sent out by ATR. The document also refers to an attached map of the 150 congressional districts to which the mailings were to be directed. It is obvious from this document that there was communication between ATR and the RNC concerning ATR’s direct mail campaign -- how else does one explain how the RNC had an advance copy of ATR’s mailing, as well as a map of the exact districts to which the mailing would be sent? Despite the fact that such communications would fall squarely under subpoena paragraph 25, ATR withheld from the Committee documents pertaining to such communication. The failure to produce this material may also constitute obstruction of justice.

Documents pertaining to this direct mail and phone bank campaign would also fall squarely under subpoena paragraph 17. This paragraph called for the production of:

All documents referring or relating to, or containing information about, any voter education activity, including telephone banks and direct mail, planned, produced or paid for by ATR. Documents include, but are not limited to, communications with regard to such activity, copies of such mailings or telephone scripts including drafts, billing invoices and other documents relating to the cost of production, and memoranda or other documents containing dates, amounts, and locations of mailings, and the number of calls placed, dates of calling, and area codes to which calls were made.⁵²

While ATR did produce some documents pertaining to its direct mail and phone bank campaign, it withheld from the Committee any documents identifying the congressional districts to which the mailings were directed (information it apparently provided to the RNC) or the area codes to

which phone bank calls were directed. As a result, the Committee to this day still does not know where ATR directed its direct mail and phone bank efforts.

Finally, we know that ATR also withheld from the Committee documents called for under subpoena paragraph 15. That paragraph read as follows:

All documents referring or relating to, or containing information about, advertising that was planned, produced or paid for by ATR. Documents include, but are not limited to, communications with any media consultant or buyer, transcripts, drafts, video copies, billing invoices, and memoranda or other records containing times, dates and locations of broadcast.⁵³

It is undisputed that ATR produced and paid for a 30-second television advertisement aimed at New Jersey senatorial candidate Robert Torricelli.⁵⁴ Some invoices pertaining to this advertisement were among the documents produced by ATR;⁵⁵ however, ATR did not produce to the Committee either a transcript or a video copy of the advertisement. ATR also failed to produce to the Committee complete records of the dates and locations of distribution of the advertisement. The Committee did obtain a video copy of the advertisement from Senator Torricelli's office, the content of which makes it clear that this was no issue ad -- the advertisement had nothing to do with tax reform, but rather was a direct attack on Torricelli's voting record as a Congressman. Had ATR provided the Committee with the content of the advertisement and complete records of the dates and locations of the advertisement's airing, it certainly would have contradicted its own statement in its June 11 transmittal letter that ATR "has never run political advertising on any subject."⁵⁶ The failure to produce this material may well constitute obstruction of justice.

The examples cited above demonstrate that documents exist which were called for under the Committee's subpoena and which were directly relevant to the core issues under investigation by the Committee. Not only did ATR withhold such documents, but the statements in ATR's transmittal letter of June 11, 1997, calling into question the jurisdiction of the Committee, make it clear that ATR's actions were taken consciously and willfully. As such, these actions constitute willful obstruction of this Committee's investigation.

CONCLUSION

The Senate investigation into the 1996 campaign represented a missed opportunity for a number of reasons as outlined in the Executive Summary to this Minority Report. Of more long-term, institutional concern, however, is the fact that the investigation has potentially jeopardized future congressional investigations. Entities on both sides of the political aisle openly resisted the Committee's investigative powers, but certain GOP-affiliated entities actively engaged in impeding and defying the inquiry. The Republican National Committee, the National Policy

Forum, Americans for Tax Reform, and Triad failed to respond to deposition subpoenas, and their employees blithely refused to appear for depositions or, if they did appear, declined to answer questions. The Majority took no meaningful enforcement action against any of these organizations. This may have set a damaging precedent for future Senate probes.

It is also extremely troubling that some of the lawyers who represented these organizations may have used unethical tactics in dealing with the Committee and thereby achieved the result they sought. It appears that certain coounsel may have withheld documents that were responsive to Committee subpoena. None of the lawyers mentioned in this chapter were cooperative in providing witnesses for deposition, even when these witnesses were under subpoena. One lawyer may have deliberately misled the Committee about which witnesses he represented⁵⁷ and may have directly approached a witness to sign an affidavit even though he knew that witness to be represented by counsel.⁵⁸ Clearly, the stakes were high for many of the entities and individuals involved in this investigation, but nothing can justify the kind of behavior that the Committee experienced with certain counsel. In future congressional investigations, these tactics should not be tolerated.

1. Memorandum to “TRIAD Employees” from “Carolyn” (Malenick) regarding “Office Computers and Files,” 2/21/97, TR 20 000005.
2. Letter to Michael Madigan from Thomas Wilson regarding Americans for Tax Reform, 6/11/97.
3. Additional documents were provided on June 30, 1997. In the transmittal letter to Michael Madigan from Thomas Wilson regarding the National Policy Forum, Wilson stated that neither the June 6 nor the June 30 productions were to be construed as compliance with the Committee’s subpoena, 6/30/97.
4. Letter to RNC Chairman Jim Nicholson from Chairman Fred Thompson requesting that Nicholson investigate complaints by the Minority that the RNC was not fully complying with the terms of its subpoena and, with respect to witnesses, urging him to instruct counsel “not to attempt to shield important facts...,” 6/11/97.
5. Subpoena to Republican National Committee, # 67, Request # 14 of Schedule A, 4/9/97.
6. Confidential Memorandum to Haley Barbour, Sanford McCallister, and Curt Anderson from Jo-Anne Coe regarding the American Defense Institute, 10/17/96, DFP-004240.
7. Letter to Grover Norquist from Jo-Anne Coe including a check in the amount of \$100,000 for Americans for Tax Reform from Carl Lindner, 10/21/96, DFP-004241.
8. Letter to David O’Steen from Jo-Anne Coe including a check in the amount of \$100,000 for the National Right to Life Committee, 10/21/96, DFP-004243.
9. Document listing money distributed to three 501(c)(4) organizations and two 501(c)(3) entities, DFP-004244.
10. Letter to Minority Counsel from Martin Weinstein demonstrating Weinstein’s “effort to efficiently produce all current and former RNC employees with whom the Committee wishes to speak...,” 5/20/97.
11. Letter to Martin Weinstein from Majority and Minority Chief Counsels regarding the Committee’s intention to depose certain individuals, 8/5/97.
12. Letter to Majority and Minority Chief Counsels from Martin Weinstein regarding the scheduling of deponents in connection with the RNC, 8/14/97.
13. Subpoenas to Scott Reed, # 392, and Jo-Anne Coe, # 396, 9/18/97.
14. Letter to Majority Chief Counsel from Martin Weinstein regarding the Republican National Committee, 10/22/97.

15. Subpoenas to Triad Management Services, Inc., #72 (22 paragraphs under Schedule A); Citizens for the Republic Education Fund, #74 (25 paragraphs under Schedule A); and Citizens for Reform, # 75 (9 paragraphs under Schedule A); 4/9/97.
16. Memorandum to “TRIAD Employees” from “Carolyn” (Malenick) regarding “Office Computers and Files,” 2/21/97, TR 20 000005.
17. Meredith O’Rourke deposition, 9/3/97, pp.30-31.
18. Subpoena to Triad Management Services, Inc., # 72, Request # 10 of Schedule A, 4/9/97.
19. Subpoenas to Carolyn Malenick, # 255; Lyn Nofziger, # 248; and Carlos Rodriguez, # 249; 7/11/97.
20. Carolyn Malenick deposition, 9/16/97, p. 17; Lyn Nofziger deposition, 9/16/97, pp. 10-11; Carlos Rodriguez deposition, 9/17/97, p. 8.
21. Subpoenas to Mark Braden, # 256, 7/11/97; David Gilliard, # 250, 7/11/97; Kathleen McCann, # 346, 8/21/97; Richard Dresner, # 375, 9/4/97; and James Farwell, # 377; 9/4/97.
22. Peter Flaherty deposition, 8/22/97, p.9.
23. Letter to RNC Chairman Jim Nicholson from Chairman Fred Thompson requesting that Nicholson investigate complaints by the Minority that the RNC was not fully complying with the terms of its subpoena and, with respect to witnesses, urging him to instruct counsel “not to attempt to shield important facts...” 6/11/97.
24. Order to National Policy Forum from Chairman Fred Thompson to produce all documents responsive to the National Policy Forum subpoena, 7/3/97.
25. Letter to Majority Chief Counsel from Thomas Wilson regarding “National Policy Forum - Response to July 3 Committee Communication,” 7/15/97.
26. Subpoena to National Policy Forum, # 71, Schedule A, 4/9/97.
27. Letter to Majority Chief Counsel from Thomas Wilson regarding the National Policy Forum, 6/30/97.
28. Order to National Policy Forum from Chairman Fred Thompson to produce all documents responsive to the National Policy Forum subpoena, 7/3/97.
29. Letter to Majority Chief Counsel from Thomas Wilson regarding “National Policy Forum - Response to July 3 Committee Communication,” 7/15/97.
30. Subpoena to National Policy Forum, # 71, Request # 2 of Schedule A, 4/9/97.

31. Exhibit 273, Memorandum to RNC Chairman Haley Barbour from NPF President Michael Baroody regarding "Some Reasons for Resignation [-] A Confidential Memorandum to Accompany My June 26 Letter of Resignation as President of NPF," 6/28/94.
32. Exhibit 353, Letter to National Policy Forum from Internal Revenue Service notifying NPF of its disqualification for exemption under Section 501(c)(4) of the Internal Revenue Code, 2/21/97, NPF 003375 through 003387.
33. Subpoena to National Policy Forum, # 71, Request # 20 of Schedule A, 4/9/97.
34. Exhibit 305, Memorandum to Haley Barbour from Grace Wieggers regarding "Recruiting Members of Congress to Raise Money for NPF," 2/13/95.
35. Exhibit 308, Memorandum to John Bolton from Grace Wieggers and Dianne Harrison regarding "Megaconference Sponsorship," 5/23/95.
36. Subpoena to National Policy Forum, # 71, Request # 23 of Schedule A, 4/9/97.
37. Exhibit 258, Memorandum to Haley Barbour, Mike Baroody, and Ken Hill from Scott Reed regarding "NPF Action," 6/2/93.
38. Letter to Majority Counsel from Thomas Wilson regarding the National Policy Forum, 6/30/97. See also, Wilson's letter to Majority Chief Counsel dated 7/15/97, in which he repeated the claim that "[t]he Forum had nothing to do with the 1996 Federal election campaigns...."
39. See Chapter 3
40. Exhibit 353, Letter to National Policy Forum from Internal Revenue Service notifying NPF of its disqualification for exemption under Section 501(c)(4) of the Internal Revenue Code, 2/21/97, NPF 003375 through 003387.
41. Subpoena to Americans for Tax Reform, # 70, Schedule A, 4/9/97.
42. Letter to Majority Chief Counsel from Thomas Wilson regarding Americans for Tax Reform, 6/11/97.
43. Letter to Majority Chief Counsel from Thomas Wilson regarding Americans for Tax Reform, 6/11/97.
44. Letter to Thomas Wilson from Majority and Minority Chief Counsels "Committee Subpoena 000070," 8/15/97.
45. Letter to Majority Chief Counsel from Thomas Wilson containing affidavit of Peter Ferrara, Document Custodian for Americans for Tax Reform, 9/3/97.
46. Subpoena to Americans for Tax Reform, # 70, Request # 9 of Schedule A, 4/9/97.

47. Subpoena to Americans for Tax Reform, # 70, Request # 25 of Schedule A, 4/9/97.
48. See, e.g., R 014844, R 046264, R 046260, R 046261, R 046265, R 046252, R 046248, R 046249, R 046253, R 046270, R 046266, R 046267, R 046271, R 046258, R 046254, R 046255, R 046259.
49. Letters from Haley Barbour to the Executive Director of ATR -- R046265, R046253, R046271, and R046259.
50. See Chapter 11.
51. ATR "Memorandum for the Field Dogs" regarding "Outside Mail and Phone Effort," R014844
52. Subpoena to Americans for Tax Reform, # 70, Request # 17 of Schedule A, 4/9/97.
53. Subpoena to Americans for Tax Reform, # 70, Request # 15 of Schedule A, 4/9/97.
54. See Chapter 11. A videotaped copy of the advertisement is maintained in the Committee's files.
55. ATR invoices for "Torricelli/Missing," ATR 000101, 000102, 000106, 000107, 000108.
56. Letter to Majority Chief Counsel from Thomas Wilson regarding Americans for Tax Reform, 6/11/97.
57. Letter to martin Weinstein from Alan Baron regarding RNC depositions, 9/30/97.
58. Letter to Alan Baron from Benton L. Becker regarding affidavit of Richard Richards, 12/16/97.